IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1548 of 2005

Between:

Grandhi Venkata Ramanayya, S/o. Late Venkata Swamy,
r/o. Bobbili, Bobbili Mandal, Vizianagaram District.

..... PETITIONER

AND

1 The Sale Officer cum - Arbitrator,

Cooperative Urban Bank Ltd.,
Bobbili, Vizianagram District.
2 The Secretary, Bobbilli, Cooperative Urban Bank Ld.,

Bobbili, Vizianagram District.
3 The Deputy Registrar, Cooperative Society,

Parvathipuram, Vizianagram District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue writ, order or direction more particularly one in the nature of Writ of Mandamus directing the 1st respondent to pass an orders in the petition filed by petitioner to set aside the ex parte order in A.R.C. No.562/2003-2004 and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.T.RAJASEKHARA RAO

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

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ORDER:

M/s R.V.J.Textiles have obtained a loan of Rs.20,00,000/- from Bobbili Co-operative Urban Bank,2nd respondent, in the year 2003-04. The petitioner stood as a guarantor for repayment of the same. When the loan amount was not paid, proceedings were initiated before the 1st respondent in A.R.C.No.562/2003-2004 for recovery of the amount. The petitioner as well as the loanee remained *ex parte*. Therefore, the 1st respondent passed an award dated 26-12-2003, holding that the petitioner as well as the loanee are liable to pay the amount.

The petitioner states that he could not appear before the 1st respondent on account of the ill-health of his father and soon after he came to know about the award in A.R.C.No.562/2003-2004, he filed an application on 02-07-2004 to set aside the *ex parte* award, duly filing an application to condone the delay. His grievance is that no orders have been passed thereon.

Heard learned counsel for the petitioner and the learned Government Pleader for Cooperation.

On account of the default committed by the original loanee, recovery proceedings were initiated before the 1st respondent. Being the guarantor, the petitioner was impleaded as one of the parties. Since the respondents in A.R.C remained *ex parte*, the 1st respondent passed *ex parte* award.

The question as to whether there was proper justification on the part of the petitioner in not appearing before the 1st respondent in the A.R.C needs to be considered and the application filed by the petitioner has to be disposed of by the 1st respondent. There cannot be any justification to keep the application pending indefinitely. The petitioner must know where he stands, and for that purpose, the 1st respondent has to dispose of the applications.

Therefore, the writ petition is disposed of directing the 1st respondent to pass appropriate orders on the applications filed by the petitioner for condonation of delay and for setting aside the award dated 26-12-2003, within a period of two months from the date of receipt of a copy of this order, duly issuing notice to the affected

parties. In the meanwhile, the 1st respondent shall not proceed against the petitioner on the basis of the *ex parte* award. There shall be no order as to costs.

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07-02-2005

vs/avs

To

1 The Sale Officer cum - Arbitrator,

Cooperative Urban Bank Ltd.,
Bobbili, Vizianagram District.

2 The Secretary, Bobbilli, Cooperative Urban Bank Ld.,

Bobbili, Vizianagram District.

3 The Deputy Registrar, Cooperative Society,

Parvathipuram, Vizianagram District.

4 Two CCs to the G.P for Cooperation, High Court Buildings,

Hyderabad(O.U.T).

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